

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

AGORA CYBER CHARTER SCHOOL
Employer

and

Case 04-RC-179402

AGORA CYBER PROFESSIONALS
ASSOCIATION, PSEA/NEA
Petitioner

ORDER

The Employer's Request for Review of the Acting Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.¹

MARK GASTON PEARCE, CHAIRMAN

LAUREN McFERRAN, MEMBER

Dated, Washington, D.C., November 16, 2016

Member Miscimarra, dissenting:

I would grant the Employer's Request for Review and dismiss the petition. The Employer operates a charter school chartered by the Commonwealth of Pennsylvania pursuant to the Charter School Law ("CSL") enacted in 1997. For the reasons fully explained in my dissenting opinions in *Pennsylvania Virtual Charter School*, 364 NLRB No. 87, slip op. at 11-18 (2016) (Member Miscimarra, dissenting), and *Hyde Leadership Charter School*, 364 NLRB No. 88, slip op. at 14-15 (2016) (Member Miscimarra, dissenting), I believe the Board should decline to assert jurisdiction over charter schools generally and in this case.

PHILIP A. MISCIMARRA, MEMBER

¹ In denying review, we note that the Acting Regional Director's Decision and Direction of Election incorporated by reference his Decision and Direction of Election in Case 04-RC-170767, which concerned another election petition seeking to represent other employees of the Employer. On this same day, we have denied review in that case. For the reasons stated in our order denying review in Case 04-RC-170767, we accordingly agree with the Acting Regional Director that the Employer is not exempt as a political subdivision under Sec. 2(2) of the National Labor Relations Act, and we find no merit in the Employer's arguments that the Board should, pursuant to Sec. 14(c)(1) of the Act, decline to assert jurisdiction over the charter school.

